

United States District Court

FILED

NORTHERN DISTRICT OF CALIFORNIA

OCT 30 2007

UNITED STATES OF AMERICA

V.

FRANCISCO ACOSTA-ROJAS

AKA: FRANCISCO ROJAS-ACOSTA, RUBEN
CARRILLO

Venue: San Francisco

CRIMINAL COMPLAINT

CASE NUMBER:

RICHARD W WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

3 07 70649

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about October 18, 2007 in San Francisco County, in the Northern District of California the defendant, **EMC**

OFFENSE: FRANCISCO ACOSTA-ROJAS (AKA FRANCISCO ROJAS-ACOSTA and RUBEN CARRILLO), an alien, after having been removed, excluded, and deported from the United States, reentered and remained in the United States and was thereafter found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8, United States Code, Section 1326,

in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

PENALTIES: Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 special assessment, and 3 years supervised release

APPROVED AS TO FORM:

Tureh J. Helo
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Warrant of Arrest Requested: ☐ Yes ☒ No

Bail Amount: **NO BAIL**

Poly Kain
Signature of Complainant

Sworn to before me and subscribed in my presence,

10/30/07 at San Francisco, California
Date City and State
Honorable Edward M. Chen
United States Magistrate Judge
Name & Title of Judicial Officer [Signature]
Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
) ss, AFFIDAVIT
CITY AND COUNTY OF SAN FRANCISCO)

The undersigned, being duly sworn, do hereby state:

I. INTRODUCTION

1. My name is Polly E. Kaiser, and I have been a Deportation Officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for approximately four years. I am currently assigned under the Field Office Director, San Francisco, California (FOD/SF) in the Detention and Removal Operations (DRO) division. I am presently attached to the Prosecutions Unit of the Criminal Alien Program, a group that is responsible for enforcing federal criminal statutes involving criminal aliens who reenter the United States illegally.

2. As set forth below, I believe that probable cause exists to support a complaint against FRANCISCO ACOSTA-ROJAS (also known as FRANCISCO ROJAS-ACOSTA and RUBEN CARRILLO) for a violation of Title 8, United States Code 1326. The facts set forth in this Affidavit are based on my review of the official Immigration Service file (A21 595 029) of ACOSTA-ROJAS, my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all facts related to ACOSTA-ROJAS that are known to me.

II. STATEMENT OF PROBABLE CAUSE

3. FRANCISCO ACOSTA-ROJAS, also known as FRANCISCO ROJAS-ACOSTA and RUBEN CARRILLO, is a 48 year-old male who is a native and citizen of Mexico, who last entered the United States illegally by crossing the international border with Mexico on or about September 1, 2007 via Calexico, California, and knowingly remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

4. The official Immigration Service file for ACOSTA-ROJAS contains three executed Warrants of Removal. The first is dated July 2, 1977, when ACOSTA-ROJAS was deported from the United States to Mexico at Brownsville, Texas after being ordered deported on July 1, 1977.

5. The second Warrant of Removal shows that ACOSTA-ROJAS was removed from the United States to Mexico again at Calexico, California, on December 28, 1978, after he was ordered deported on December 21, 1978.

6. The third Warrant of Removal shows that ACOSTA-ROJAS was last removed from the United States to Mexico at San Ysidro, California, on or about August 28, 2007, after his 1977 deportation was reinstated.

7. On May 1, 2007 the FBI Special Processing Center confirmed that the fingerprints submitted from ACOSTA-ROJAS'S fingerprint card taken on or about May 1, 2007 are identical with prints on file with the FBI for FBI number 43417AB6, belonging to RUBEN CARRILLO, one of ACOSTA-ROJAS'S aliases.

8. In a sworn statement taken May 8, 2007 by Immigration Enforcement Agent James Johangten, ACOSTA-ROJAS was advised of his Miranda rights and the right to speak to a consular or diplomatic officer of his country of citizenship. He waived his Miranda rights and provided a sworn statement that his true and correct name is FRANCISCO ROJAS-ACOSTA (which is one of ACOSTA-ROJAS'S aliases), that he was born in Mexico, and is a citizen of Mexico. He admitted to knowingly entering the United States in 2003 through Calexico, California and remaining in the United States thereafter.

9. On October 18, 2007, Immigration and Customs Enforcement Officers encountered ACOSTA-ROJAS at the San Francisco County courthouse. Immigration Enforcement Agent Darin Momrow recognized ACOSTA-ROJAS from a previous encounter and removal from the United States. ACOSTA-ROJAS was then taken into Immigration and Customs Enforcement custody.

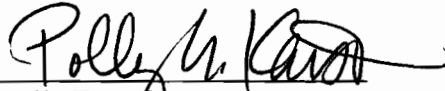
10. On October 19, 2007, at the Bureau of Immigration and Customs Enforcement District Office in San Francisco, California, I interviewed ACOSTA-ROJAS, who was then claiming to be RUBEN CARRILLO, one of ACOSTA-ROJAS'S aliases. After I advised ACOSTA-ROJAS of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, ACOSTA-ROJAS waived those rights and provided a sworn statement, admitting that he was deported from the U.S. on September 1, 2007.

11. On October 18, 2007, a full set of rolled fingerprints taken that day and a set of fingerprints from ACOSTA-ROJAS'S official immigration file taken on May 1, 2007 were submitted to the Integrated Automated Fingerprint Identification System, ("IAFIS"), for verification of identity. On October 19, 2007, the fingerprint examiner positively identified both sets of fingerprints as belonging to the same FRANCISCO ACOSTA-ROJAS who was previously removed from the United States on August 28, 2007.

12. There is no indication in the official files of the United States Bureau of Immigration and Customs Enforcement that the defendant has applied for or been granted the requisite permission to reenter the United States from either the Attorney General of the United States or the Secretary for Homeland Security. Further, in his sworn statements of May 8, 2007 and October 19, 2007, ACOSTA-ROJAS admitted that he had not applied to the Attorney General or the Secretary of Homeland Security for permission to reenter the United States after deportation.

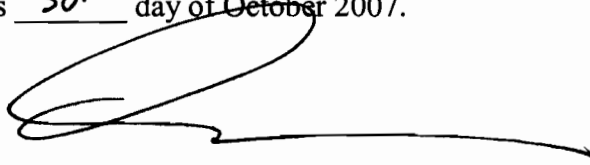
III. CONCLUSION

13. On the basis of the above information, I submit that probable cause exists to believe that FRANCISCO ACOSTA-ROJAS, also known as FRANCISCO ROJAS-ACOSTA and RUBEN CARRILLO, illegally reentered the United States following deportation, in violation of Title 8, United States Code, Section 1326.



Polly E. Kaiser
Deportation Officer U.S. Department of Homeland
Security
U.S. Immigration and Customs Enforcement
San Francisco, California

Subscribed and sworn to before me this 30th day of October 2007.



The Honorable ~~Maria Elena James~~ **EDWARD M. CHEN**
United States Magistrate Judge
Northern District of California
San Francisco, California